This **AGREEMENT** is made and entered into as of the date of the last signature below by and between Google LLC ("Vendor"), a corporation having its principal offices at 1600 Amphitheatre Parkway, Mountain View, CA, 94043, and Erie 1 Board of Cooperative Educational Services ("Erie 1 BOCES'), a municipal corporation organized and existing under the Education Law of the State of New York having its principal offices at 355 Harlem Road, West Seneca, NY 14224. This Agreement will become effective upon the execution hereof by Vendor and Erie 1 BOCES. This Agreement will expire June 30. 2020. At that time parties may enter into a new Agreement upon terms to be agreed upon. Purchases made during the period of the Agreement will receive all products and services described in this Agreement.

WHEREAS, Google LLC has been identified and accepted by the Erie 1 BOCES as a provider of G Suite for Education, the application as more fully described in Exhibit A attached hereto and by this reference made part hereof of this Agreement (hereinafter referred to as "Product"); and

WHEREAS, a Board of Cooperative Educational Services ("BOCES") is a municipal corporation organized and existing under the Education Law of the State of New York that pursuant to Education Law §1950 provides shared computer services and software to school district components ("District" or "Districts") of the Regional Information Center ("RIC") and in that capacity purchases various products for use by said districts as part of the BOCES service, and

WHEREAS, Erie 1 BOCES is responsible for negotiating and entering into technology contracts and that other BOCES may bind themselves to such contracts and utilize services under such contracts by adopting appropriate School Board resolutions and by ordering services from Vendor by executing a Vendor "Customer Affiliate Agreement"; and

WHEREAS, this Agreement is subject to the New York's Education Law Section 2-d ("Education Law 2-d'); and

WHEREAS, several BOCES throughout New York State wish to offer G Suite for Education to its Districts as part of the BOCES service;

NOW, THEREFORE, And in consideration of the mutual promises hereinafter set forth, the parties agree as follows:

DEFINITIONS:

·customer Affiliate Agreement" is the ordering document that allows Customer Affiliates to order Google Services.

"Cooperative Service Agreement" (COSER) is an agreement approved by the New York State Department of Education pursuant to Education Law §1950 whereby licensed Districts purchase services from a BOCES.

"District" means a school district component of a RIC or BOCES that purchases the Instructional Technology service COSER 7710.

"Documentation' means, with respect to any particular application or equipment, any applicable standard end user specifications and/or operating instructions provided by Vendor for such application and/or equipment, which may be amended from time to time. Documentation does not include any sales or marketing materials.

"Effective Date" means the date upon which the last Party signs this Agreement.

"Eligible Student" means a student eighteen years or older.

'Licensee" means Erie 1 BOCES on behalf of the Western New York Regional Information Center, or any other BOCES in the State of New York which accepts the provisions of this Agreement by formal action of its Board of Education.

'Parent" means a parent. legal guardian, or person in parental relation to a Student.

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"Party" means either Vendor or ERIE 1 BOCES.

"Personally Identifiable Information" ("PII") as applied to Student Data, means personally identifiable information as defined in 34 CFR 99.3 implementing the Family Educational Rights and Privacy Act (FERPA), at 20 USC 1232g.

"Personal, Private, and Sensitive Information" ("PPSI") is any information to which unauthorized access, disclosure, modification, destruction, or disruption of access or use could severely impact critical functions, employees, customers or third parties, or students in general. Private information could include one or more of the following: Social Security number; driver's license number or non-driver ID; account nlImber, credit card number, or debit card number and security code; or access code/password that permits access to an individual's financial account or protected student records.

"Product" shall include each and every component specified in Exhibit A, which Vendor has developed, owns or which Vendor has acquired the right to license.

"Regional Information Centers" or "BOC ES" mean any of the following Regional Information Centers: South Central (BT BOCES), Mohawk, Mid-Hudson,Greater Southern Tier, Central New York (OCM BOCES), Northeastern (Capital Region BOCES), Monroe #1, Wayne-Finger Lakes (EduTech), Nassau, Western New York (Erie 1 BOCES), Eastern Suffolk, and Lower Hudson. It is understood that these RIC/BOCES have defined service areas within the State of New York and that said service areas include one or more "BOCES" and in that capacity purchases various software for use by said districts as part of the BOC ES service. Each BOC ES is an entity comprised of school districts in the state of New York. Only school districts served by a BOCES may participate in this Agreement after their BOC ES Board of Education has approved the resolution and a Customer Affiliate Agreement is executed with Vendor. Licenses hosted by an individual BOCES will not be eligible for this Agreement lInless and until they join the participating RIC/BOCES for this Services.

"Services" means any services provided by Vendor to the Licensee pursuant to any schedule, Including, without limitation, consulting, educational, hosting, system administration, training or maintenance and support services.

"Student" means any person attending or seeking to enroll in a District that purchases Google products pursuant to the Agreement.

"Shared Data' means collectively Student Data. Teacher/Principal Data and PPSI.

"Student Data" means personally identifiable information from student records that Vendor receives from a BOCES, RIC or District.

"Teacher/Principal Data" means personally identifiable information from the records of an educational agency relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of section three thousand twelve-c of New York Education Law.

"VENDOR" means Google, LLC.

1.1   Product shall be utilized at the sites as shall be designated by BOC ES or District, or utilized in a cloud environment and shall be used solely for the benefit of BOC ES or such District. BOC ES or a District shall not permit or provide for transfer or reproduction of Product, or any portion thereof, to be placed on a computer not at the sites, by physical or electronic means, unless specifically authorized. BOC ES, or a District, shall not make or allow others to make copies or reproductions of the Product, or any portion thereof in any form without the prior written consent of Vendor. The unauthorized distribution or disclosure of the Product, is prohibited, and shall be considered a material breach of this Agreement.

1.2   Except as expressly stated herein, BOCES, or a District, may not alter, modify, or adapt the Product, including

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but not limited to translating, reverse engineering, decompiling, disassembling, or creating derivative works, and may not take any other steps intended to produce a source language state of the Product or any part thereof, without Vendor's prior express written consent.

1.3 BOCES, or a District, will be the sole owner and custodian of data transmitted, received, or manipulated by the Product, except as otherwise set forth in this Agreement. In the event that Vendor stores or maintains Shared Data provided to it by a BOCES, RIC or District. whether as a cloud provider or otherwise, the Vendor assumes all risks and obligations in the event of a breach of security ,of such Shared Data unless BOCES, the District, or any student causes the breach.

1.4 Vendor shall not subcontract or assign its obligation to store or maintain Shared Data provided to it pursuant to this Agreement to a third party cloud provider unless granted specific prior written permission from Erie 1 BOCES. Shared Data transferred to Vendor by a BOCES, RIC or a District will be stored in electronic format on systems maintained by Vendor in a secure data center facility located within the United States of America in accordance with the instructions received from either a BOCES, RIC or a District. The measures that Vendor will take to protect the privacy and security of the Shared Data while it is stored in that manner are those associated with industry best practices including, but not necessarily limited to, disk encryption. file encryption, firewalls, and password protection.

1.5 Subject to the terms of the Vendor's Data Processing Amendment (incorporated by reference into this Agreement under Exhibit A) and unless otherwise prohibited by statute or court order, Vendor must promptly inform the BOCES, RIC or District, as applicable, in the event that any Shared Data it stores or maintains pursuant to this Agreement. including such data as may be stored or maintained by a third party cloud provider on Vendor's behalf. is requested by law enforcement authorities or otherwise sought by subpoena or court order.

1.6 Vendor will keep confidential all information and data, including any Shared Data, to which it has access in the performance of this Agreement.

1.7 In addition to the above requirements, *for* Shared Data as defined above:

A. Vendor shall maintain the confidentiality of the Shared Data in accordance with applicable state and federal law. Vendor acknowledges that the New York State Education Department is in process of promulgating regulations to ensure compliance with Education Law 2-d and that upon its adoption of those Education Law 2-d regulations, it may become necessary for the parties to adopt an amendment that supersedes or supplements the terms of this Agreement. Vendor agrees to act in good faith to take such additional steps to adopt all necessary documents so the terms of the Agreement will be in compliance with Education Law 2-d and its implementing regulations.

B. Vendor's data security and privacy plan for how all state, federal and local data security and privacy contract requirements will be implemented over the term of this Agreement, consistent with Erie 1 BOCES' policy on data security and privacy, is described in the G Suite for Education terms of service and the G Suite Data Processing Amendment.

C. Vendor's data security and privacy plan includes Erie 1 BOCES' Parents Bill of Rights for data privacy and security (a copy of which is attached hereto and Incorporated into this Agreement as Exhibit B.

D. In accordance with Vendor's data security and privacy plan, Vendor agrees that any of its officers or employees. and any officers or employees of any subcontractor or assignee of Vendor, who will have access to the Shared Data. have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving the data or access to the data. Upon request. Vendor and/or its subcontractors or assignees will provide a certification from an appropriate officer that the requirements of this paragraph have been satisfied in full.

E. The exclusive purposes for which Vendor is being provided access to the Shared Data is: to provide Licensees

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with the functionality of Google G Suite for Education Services.

F.   Vendor will ensure that it will only share Shared Data with additional third parties if those third parties are contractually bound to observe the same obligations to maintain data privacy and security as required by Vendor pursuant to this Agreement.

G.   Upon expiration of this Agreement without renewal, Vendor shall, if requested in advance by BOCES, RIC or a District, assist BOCES, RIC or the District in exporting all electronically stored Shared Data previously received back to the BOCES, RIC or a District for a period that shall not exceed 180 days after the Agreement's termination or expiration date ("Transition Term"). The G Suite for Education Terms of Service (including payment obligations) will continue to apply during the Transition Term. Thereafter, Vendor shall promptly securely delete and/or dispose of any and all Shared Data remaining in the possession of Vendor or its assignees or subcontractors (including all electronic versions or electronic imaging of hard copies of Shared Data) in accordance with the terms of G Suite Data Processing Amendment. Vendor agrees that neither it nor its subcontractors or assignees will retain any copy, summary or extract of the Shared Data or any related work papers on any storage medium whatsoever. At the end of the Transition Term, Vendor will have no further obligation to provide the terminated Services and will cease providing such Services without any further notice.

H.   In the event that a Parent or Eligible Student wishes to challenge the accuracy of the Shared Data concerning that Student or Eligible Student that is maintained by Vendor, that challenge may be processed through the procedures provided by the licensed District for amendment of education records under the Family Educational Rights and Privacy Act (FERPA). Vendor's services allow the District to promptly correct any inaccurate data stored in Vendor's systems. A teacher or principal who wishes to challenge the accuracy of the Shared Data concerning that teacher or principal that is maintained by Vendor may do so through the process set forth in the APPR plan of their employing school district or BOCES.

I.   Shared Data received by Vendor or by any subcontractor or assignee of Vendor from a BOCES, RIC or a District shall not be sold or released for any commercial purposes, nor shall it be sold or used for marketing purposes.

J.   Vendor acknowledges that it has the following additional obligations under NYS Education Law 2-d with respect to any Shared Data received from a BOCES, RIC or a District, and agrees that any failure to fulfill one or more of these statutory obligations shall be deemed a breach of this Agreement, as well as subject Vendor to various penalties under Education Law 2-d, including but not limited to civil penalties:

   a.   To limit internal access to education records and Student Data to those individuals that are determined to have legitimate educational interests within the meaning of Section 2-d and the Family Educational Rights and Privacy Act (FERPA); e.g., the individual needs access to the Student Data in order to fulfill his or her responsibilities in performing the services provided to a BOCES, RIC or a District by Vendor;

   b.   To not use education records or Shared Data for any purpose(s) other than those explicitly authorized in this Agreement;

   c.   To not disclose any Personally Identifiable Information to any other party who is not an authorized representative of Vendor using the information to carry out Vendor's obligations under this Agreement, unless:
      i.   the Parent or Eligible Student has provided prior written consent, or
      ii. the disclosure is required by statute or court order, and notice of the disclosure is provided to the BOCES, RIC or District prior to the time of disclosure, unless such notice is expressly prohibited by the statute or court order;

K.   To maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of PII in its custody;

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L. To use encryption technology to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the U.S. Department of HHS in guidance issued under P.L. 111-5, Section 13402(H)(2), or any other technology or methodology specifically authorized by applicable statute, regulation or the NYS Education Department;

M. To notify the BOCES, RIC or a District of any breach of security resulting in an unauthorized release of Shared Data by Vendor or its subcontractors or assignees in violation of applicable state or federal law, the Parents Bill of Rights for student data privacy and security, the data privacy and security policy of Erie 1 BOCES, and obligations relating to data privacy and security within this Agreement including the Vendor's Data Processing Amendment in the most expedient way possible and without unreasonable delay. Notifications related to any data incident or breach of data will be subject to the terms of the Vendor's Data Processing Amendment.

N. In the event that a BOCES, RIC or a District is required under Education Law 2-d to notify Parent(s) or Eligible Student(s) of an unauthorized release of Shared Data by Vendor or its assignees or subcontractors, Vendor shall promptly reimburse the BOCES, RIC or a District for the full cost of such notification.

O. BOCES, or a District, shall keep confidential the Product and all Documentation associated therewith whether or not protected by copyright. BOCES, or a District, will reasonably protect such information and at a minimum provide the same safeguards afforded its own like confidential information. Confidential information shall not include information in the public domain, information already rightfully in the possession of the other party without an obligation to keep it confidential, information obtained from another source without obligations of confidentiality, information independently developed, or information required by a court or government order or applicable law.

P. Vendor shall have the right upon, three business days written notice to BOCES or District, as applicable, to enter the premises of the BOCES or the District for the purpose of inspecting to ensure compliance by the BOCES or the District of its obligations hereunder. Entry shall only be allowed Monday through Friday during the normal business hours or 8:00 A.M. to 3:00 P.M. Eastern Time.

1.8   To the extent that any term of the G Suite for Education terms of service directly conflicts with the terms of this Agreement, the terms of this Agreement shall apply and be given effect.

Vendor agrees that the terms of this Agreement may be shared with any BOCES or District or representatives thereof.

Any District may bind itself and Vendor to the terms of this Agreement by opting into the terms of this Agreement in writing by executing a Customer Affiliate Agreement. Vendor's recourse in the event of a breach of this Agreement by any District or BOCES shall be limited to recourse against the breaching District or BOCES and shall not extend to any other District or BOCES.

ADDITIONAL TERMS

As to Section 1.4, the Erie 1 BOCES acknowledges and agrees that Vendor and its affiliates use a range of subprocessors to assist with the provision of the G Suite Service. More information about Vendor's subprocessor use can be found at this link: https://gsuite.google.com/intl/en/terms/subprocessors.html.

Notwithstanding anything to the contrary under Section 1.4, in reference to the storage location for data, for certain Vendor G Suite editions, BOCES and/or a District may select data regions for the storage of data. Data regions allow administrators to store covered data in a specific geographic location (the United States or Europe) by using a data region policy. BOCES and/or District are individually responsible for assessing whether Vendor data regions feature complies to applicable requirements. Vendor data regions policy can be found at this link: https://support.google.com/a/answer/7370133?hl=en complies with Licensee applicable laws.

Vendor protects Shared Data, and our agreements address how we do that. Before Vendor discloses confidential information in accordance with a legal process, Vendor will use commercially reasonable efforts to promptly notify you of that disclosure, unless otherwise prohibited by statute or court order. More information about Vendor privacy can be found in the G Suite terms of service.

Licensee may sign a Vendor Data Processing Amendment, which exclusively describes the processing and security of customer data under the applicable customer agreement.

As to data security and privacy training and notwithstanding anything to the contrary in Section 1.7.D, Vendor clarifies that it has training and policies that apply to Vendor employees and vendors. In addition to mandatory training, Vendor privacy policies include Google's Privacy Policy, Google Privacy and Security Principles, Internal Privacy Policies, Information Security Policies, and the Google Code of Conduct. Data privacy and security related to Google subprocessors can be found in the Data Processing Amendment referenced above.

Licensee has the ability to export customer data from Vendor's systems at any time according to the terms of the Data Processing Amendment.

Customer: ERIE 1 BOCES

By: _____

Print Name: _James Fregelette_

Title: _Executive Director, Admin : Operations_

Date: _9/26/19_

Vendor: Google LLC

By: _____

Print N   Philipp Schindler
           Authorized Signatory

Title:

Date:

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Google G Suite for Education terms are located at this link: https://gsuite.google.com/intl/en/terms/education_terms.html

Google Data Processing Amendment is located at this link: https://gsuite.google.com/terms/dpa_terms.html

PARENTS BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

Erie 1 BOCES is committed to protecting the privacy and security of student. teacher, and principal data. In accordance with New York Education Law§ 2-d, the BOCES wishes to inform the community of the following:

(1) A student's Personally Identifiable Information cannot be sold or released for any commercial purposes.

(2) Parents have the right to inspect and review the complete contents of their child's education record.

(3) State and federal laws protect the confidentiality of Personally Identifiable Information, and safeguards associated with industry standards and best practices, including but not limited to. encryption, firewalls, and password protection, must be in place when data is stored or transferred.

(4) A complete list of all Student Data elements collected by the State is available for public review at http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx. or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234.

(5) Parents have the right to have complaints about possible breaches of Student Data addressed.

Complaints should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234. Complaints may also be directed to the Chief Privacy Officer via email at: CPO@mail.nysed.gov.

Google LLC ("Vendor")

Signature	
Title	Philipp Schindler Auihori,cd Sig.natOI'}
Date	

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Supplemental Information Regarding Third-Party Contractors

In the course of complying with its obligations under the law and providing educational services. Erie 1 BOCES has entered into agreements with certain third-party contractors. Pursuant to such agreements, third-party contractors may have access to "student data" and/or "teacher or principal data," as those terms are defined by law.

Each contract the BOCES enters into with a third party contractor where the third party contractor receives student data or teacher or principal data will include the following information:

(1) the exclusive purposes for which the student data or teacher or principal data will be used;

(2) how the third-party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

(3) when the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

(4) if and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

(5) where the student data or teacher or principal data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.